IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 970 OF 2005

Shri Vinayak Vasantrao Bhandare ..Petitioner.

Versus

Shri Tukaram Namdeo Gavhane ..Respondent.

Mr. R.G.Ketkar for the Petitioner.

Mrs. Aniketa Aher -Sawant for the Respondent.

CORAM : S. A. BOBDE, J.

DATED : 25TH JULY, 2005.

P.C.:

1. Rule, returnable forthwith.

. Mrs. Aniketa Aher-Sawant waives service of rule for the respondent.

. Heard by consent.

2. By this petition, the petitioner is challenging the order by which he has been granted leave to defend on depositing Rs. 60,000/- in a suit filed by the respondent under Order 37. The respondent has claimed a sum of Rs. 90,000/- in that

suit.

3. The petitioner has also challenged two other orders below Exhs. 24 and 26. By one of the orders, the court has deferred the application for examination of the document by a hand writing experts to a latter stage in the suit. By the other order below Exh. 26, the court has observed that the documents demanded by the petitioner have already been supplied and therefore, it has directed the suit to proceed.

4. Mr. Ketkar, the learned counsel for the petitioner submitted that the leave to defend ought to have been unconditional in view of the allegations that the cheque of Rs. 90,000/- on which the suit is based, interalia, is in the hand writing of the petitioner. It, however, appears that there is no dispute that the petitioner has signed the cheque. It is, therefore, not possible to accept the contention of the learned counsel at this stage that the leave ought to have been unconditional.

5. In this view of the matter, I see that there is no jurisdictional error in the order. There is no merit in the petition. It is, therefore, dismissed.

25.07.2005 (S.A.BOBDE,J.)

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